

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5053 of 1996

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MADHUBHAI KARSHANBHAI

Versus

STATE OF GUJARAT  
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Appearance:

MR AJ PATEL for Petitioner

MR SJ DAVE, AGP for Respondents  
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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 19/07/1999

ORAL JUDGEMENT

1. The petitioner herein challenges the order passed in Appeal under section 34 of the Urban Land (Ceiling & Regulation) Act, 1976 arising from the adjudication of Form No.1 under section 6.

2. It is common ground on both sides that the State of Gujarat adopted the Urban Land (Ceiling & Regulation) Repeal Act, 1999 on 30th March 1999.

3. It is also common ground on both sides that by virtue of section 4 of the Repeal Act, all proceedings pending on the said date shall abate.

4. It is so found and accordingly held, and the present petition is disposed of accordingly.

5. Learned AGP states on instructions that the State of Gujarat will abide by the Circular issued by the State Government in the Revenue Department No.ULC/1099-602/V1 dated 15th April 1999.

6. Before parting with this matter, the question of actual and physical possession requires to be discussed.

7. No affidavit-in-reply to the petition has been filed. Furthermore, Mr. Dave, learned AGP appearing for

the respondents states that he has no instructions in the matter.

8. It further requires to be noted that this petition was admitted on 15th July 1996 and on the said date, this court had ordered by way of ad interim relief (which was subsequently confirmed) that "status-quo with respect to the subject matter of this petition is ordered to be maintained by both the sides". It, therefore, appears that respondent authorities were prevented by an order of this court from proceeding further with the matter and in any case could not have taken action to recover actual and physical possession of the property in question. Thus, it must be found that the petitioner is in actual and physical possession of the subject matter of the petition.

9. Rule is accordingly discharged with no order as to costs. Interim relief if any stands vacated.

19.07.1999 (Y.B. BHATT J.)